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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/282,954	04/01/1999	BRIAN J. VENKLASE	035-005	9312

7590

03/20/2003

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EXAMINER

JACKSON, JENISE E

ART UNIT

PAPER NUMBER

2131

DATE MAILED: 03/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

DP

Office Action Summary

Application No.

09/282,954

Applicant(s)

VENEKLASE, BRIAN J.

Examiner

Jenise E Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 4 is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 5.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other:

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DETAILED ACTION

Election/Restrictions

1. Allowed claims 1-6 generic to a plurality of disclosed patentably distinct species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species embraced by the allowed genus.

I. Claims 1-4 are classified in class 713/200, that have subject matter that contains transmitting information and storing the information in a grid. The species are identified as the species of figures 1, 2, 5.

II. Claim 5, is classified in class 713/201, that has subject matter that contains communicating information by using a filter. The species is identified by figures 3 and 8.

III. Claim 6, is classified in class 709/225, that has subject matter that contains receiving data, and splitting data using a passer. The species is identified by figure 4.

2. Inventions are distinct from each other for the following reasons above. The invention I is classified in 713/200, invention II is classified in 713/201, and invention III is classified in 709/225. See MPEP 806.04.

3. During a telephone conversation with John Chupa on February 27, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-4.

Affirmation of this election must be made by Applicant in replying to this Office action. Claims 5-6 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 3 is rejected under 35 U.S.C. 101 because claim 3 is a recognition grid for use with an array of memory location. The claimed invention is directed to non-statutory subject matter. According to the specification on page 5, it states that a recognition grid defines those elements and or portions of received data. Therefore, Claim 3, is merely data with no function. Therefore, claim 3, is directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being unclear.

6. As per telephonic conversation with Attorney, claim 3, the definition that the Applicant proposed for recognition grid, is memory locations/array that are recognizes data. The Examiner asserts that this is unclear because the claim would read, memory location that recognizes data for use with an array of memory locations, each of the memory locations having a unique address. The Examiner asserts that how can a memory location be used for a memory location?

5. Claims 3 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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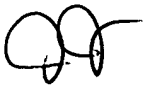
6. Claims 1-4 are allowable for the limitations of a recognition grid that is created and transmitted to be communicated.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenise E Jackson whose telephone number is (703) 306-0426. The examiner can normally be reached on M-Th (6:00 a.m. - 3:30 p.m.) alternate Friday's.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gail Hayes can be reached on (703) 305-9711. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-0040 for regular communications and (703) 308-6306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



March 18, 2003



GAIL HAYES
SUPERVISORY PATENT EXAMINER
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